

02.05.2026

Pet. By Sri.KV ;

Res, by: Sri. NGG;

Orders

COMMON ORDER

The legal heirs of petitioner No.1(a)(i) have filed the application under Order XXII Rule 3 of the Code of Civil Procedure, 1908 (Hereinafter referred to as 'C.P.C.,' for brevity) praying to implead them as supplemental petitioner No.1(a)(ii) to 1(a)(v) in the proceedings and application under Order XXII Rule 9 of C.P.C., praying to set aside abatement of the petition against the petitioner No.1(a)(i) and application under Section 5 of the Limitation Act,1963 praying the Court to condone the delay in filing the application to bring the legal heirs of the deceased petitioner No.1(a)(i).

2. It is averred in the affidavit annexed to the applications that, the petitioner No.1(a)(i)/Venkateshappa died on 24.04.2025 leaving behind the proposed petitioner No.1(a)(ii) to 1(a)(v) as his legal heirs. They have succeeded the deceased petitioner No.1(a)(i) to all his rights and properties. The delay in filing the applications is not intentional. With these, prayed to allow the applications.

3. Per contra, the respondent No.8 resisted the application by filing objection. It is specifically contended that the applications are not maintainable and liable to be dismissed in limine. The proposed

petitioner No.1(a)(ii) to 1(a)(v) have not produced any supportive documents to substantiate that they are the legal heirs of the deceased petitioner No.1(a)(i). There is an inordinate delay in bringing the legal heirs of the deceased petitioner No.1(a)(i) and no reason assigned for such delay. Therefore, the respondent No.8 prayed to dismissal of the suit.

4. The points that would arise for consideration are:-

1. Whether the applications filed by the proposed petitioner No.1(a)(ii) to 1(a)(v) are deserves to be allowed?

2. What order?

5. I have heard both the learned counsel for the parties to the lis and perused the entire material on record.

6. My answer to the above said points are as under:

Point No.1: In the Affirmative;

Point No.2: As per final order for the following:

REASONS

7. **Point No.1:** The original petitioner has filed the present petition to draw final decree effecting division in terms of the preliminary decree dated 14.03.1986 in OS. No.228/1993. The

Learned Counsel for the petitioners submitted that the proposed petitioner No.1(a)(ii) to 1(a)(v) are legal heirs of the deceased petitioner No.1(a)(i) and they have succeeded the deceased petitioner No.1(a)(i) to all his rights and properties. The proposed petitioner No.1(a)(ii) to 1(a)(v) are necessary parties to the petition. The delay in filing the applications is not intentional. If the applications are allowed, no way prejudice to the other side. As such, he prayed to allow the applications. Counter to that, the learned counsel for the respondent No.8 submitted that there is an inordinate delay in bringing the legal heirs of the deceased petitioner No.1(a)(i) and no reason assigned for such delay. The proposed petitioner No.1(a)(ii) to 1(a)(v) have not produced any supportive documents to substantiate that they are the legal heirs of the deceased petitioner No.1(a)(i). As such, he prayed to dismissal of the applications

8. When the matter was posted for further arguments on main petition, at this stage the proposed petitioner No.1(a)(ii) to 1(a)(v) have filed the present applications. The present petition is to draw final decree. The proposed petitioner No.1(a)(ii) to 1(a)(v) are necessary parties for determining the real questions in controversy between the parties. If the legal heirs of the deceased petitioner No.1(a)(i) are impleaded by setting aside the abatement of the petition against the petitioner No.1(a)(i) by condoning the delay in

filing the application, no hardship will be caused to the other side. The respondents No.8 has not produced any contra materials to substantiate that the proposed petitioner No.1(a)(ii) to 1(a)(v) are not the legal heirs of the deceased petitioner No.1(a)(i). Mere contending that the proposed petitioner No.1(a)(ii) to 1(a)(v) have not proposed any supportive documents to substantiate that they are the legal heirs of the deceased petitioner No.1(a)(i) does not hold water. In view of above, I answer point No.1 in the '**Affirmative**'.

9. **Point No.2:** In view of discussion and the findings arrived at point No.1, I proceed to pass the following:

ORDER

Application filed by the proposed petitioner No.1(a)(ii) to 1(a)(v) under Order XXII Rule 3 of CPC and application under Order XXII Rule 9 of C.P.C., and application under Section 5 of the Limitation Act, 1963 are allowed

The legal heirs of the deceased petitioner No.1(a)(i) i.e., petitioner No.1(a)(ii)/Smt. Krishnamma; petitioner No.1(a)(iii)/Smt. Lakshmi; petitioner No.1(a)(iv)/Ms. Inchara R. and petitioner No.1(a)(v)/Ms. Anjana Devi R., are impleaded in the petition.

For amendment of petition and amended
petition by:

**Prl. Civil Judge & JMFC.,
Hosakote.**